

AMENDED IN SENATE MAY 4, 2009

SENATE BILL

No. 825

Introduced by Committee on Governmental Organization (Senators Wright (Chair), Benoit, Calderon, Denham, Florez, Harman, Negrete McLeod, Oropeza, Padilla, Romero, Wiggins, Wyland, and Yee)

March 19, 2009

An act to amend ~~Section~~ *Sections 24013 and 25176* of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 825, as amended, Committee on Governmental Organization. ~~Prohibitions:—Alcoholic beverages: liquor licenses: protests: prohibitions:~~ refilling distilled spirits containers.

~~The~~

The Alcoholic Beverage Control Act provides that protests against the issuance of a liquor license may be filed with the Department of Alcoholic Beverage Control. The act permits the department to reject protests, except protests made by a public agency, public official, or governing body of a city or county, it determines to be false, frivolous, vexatious, or without reasonable or probable cause.

This bill would make technical changes to those provisions to reflect changes made to other related laws, as provided.

The Alcoholic Beverage Control Act contains various provisions regulating the labeling and containers of alcoholic beverages within the state, including a provision prohibiting, as a misdemeanor, the refilling or causing to be refilled with distilled spirits any distilled spirits package to which a tax stamp has been affixed evidencing the payment of United States internal revenue taxes.

This bill would make a technical, nonsubstantive change to this provision to conform with current United States internal revenue procedure.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 24013 of the Business and Professions*
2 *Code is amended to read:*

3 24013. (a) Protests may be filed at any office of the department
4 ~~at any time~~ within 30 days from the first date of posting the notice
5 of intention to engage in the sale of alcoholic beverages at the
6 premises, ~~or~~ within 30 days of the mailing of the notification
7 pursuant to Section 23985.5, *or within 30 days of the mailing of*
8 *the notices of the department to public officials as required by*
9 *Section 23987, whichever is later. The time within which a local*
10 *law enforcement agency may file a protest shall be extended by*
11 *the period prescribed in Section 23987, pursuant to a request made*
12 *under that section.*

13 (b) The department may reject protests, except protests made
14 by a public agency or public official or protests made by the
15 governing body of a city or county, if it determines the protests
16 are false, vexatious, frivolous, or without reasonable or probable
17 cause at any time before hearing thereon, notwithstanding Section
18 24016 or 24300. If, after investigation, the department recommends
19 that a license be issued notwithstanding a protest by a public
20 agency, a public official, or the governing body of a city or county,
21 the department shall notify the agency, official, or governing body
22 in writing of its determination and the reasons therefor, in
23 conjunction with the notice of hearing provided to the protestant
24 pursuant to Section 11509 of the Government Code. If the
25 department rejects a protest as provided in this section and issues
26 a license, a protestant whose protest has been rejected may, within
27 10 days after the issuance of the license, file an accusation with
28 the department alleging the grounds of protest as a cause for
29 revocation of the license and the department shall hold a hearing
30 as provided in Chapter 5 (commencing with Section 11500) of
31 Part 1 of Division 3 of Title 2 of the Government Code.

1 (c) Nothing in this section shall be construed as prohibiting or
2 restricting any right that the individual making the protest might
3 have to a judicial proceeding.

4 ~~SECTION 1.~~

5 *SEC. 2.* Section 25176 of the Business and Professions Code
6 is amended to read:

7 25176. Every person who refills or causes to be refilled with
8 distilled spirits any distilled spirits container is guilty of a
9 misdemeanor.